



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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Received
Records Management

Date: August 12, 2019

To: Rayne Pearson, Director, Administrative Law Division

From: Mathew Perkinson, Assistant Director, Transportation Safety Division

Re: **TE-190589 and TE-190590 AC Checker LLC d/b/a VIP Arrivals**
Evaluation of Safety Management Plan, Recommendations regarding the company's safety rating, and the cancellation of its charter and excursion operating authority (CH-067115)

On July 10, 2019, staff completed a routine safety investigation of AC Checker LLC d/b/a VIP Arrivals (VIP Arrivals or company) which resulted in a proposed *unsatisfactory* safety rating.

Commission rules prohibit motor carriers from operating beginning on the 46th day after the date of the notice of a proposed unsatisfactory rating. A company may request a change in its safety rating based on evidence that it has taken corrective actions to address the identified violations, and that its operations currently meet the safety standard and factors in 49 CFR 385.5 and 385.7. In this case, VIP Arrivals has until August 25, 2019, to come into compliance with applicable laws and rules by obtaining commission approval of a safety management plan.

The proposed unsatisfactory safety rating was based on three violations of critical regulations – 391.45(a), 391.51(a), 395.8(a)(1).

“**Critical**” regulations are those identified as such where non-compliance relates to management and operational controls. These are indicative of breakdowns in a company's management controls. Patterns of non-compliance with a critical regulation are linked to inadequate safety management controls and higher than average accident rates.

Critical violations discovered during investigation:

1. Twenty-one violations of Title 49 CFR Part 391.45(a) – Using a driver not medically examined and certified.
2. Two violations of Title 49 CFR Part 391.51(a) – Failing to maintain driver qualification file on each driver employed.

3. Sixty violation of Title 49 CFR Part 395.8(a)(1) – Failing to require driver to prepare a record of duty status using the appropriate method.

In a July 19, 2019, Notice of Intent to Cancel Certificate, the commission instructed the company to submit its proposed safety management plan no later than August 12, 2019.

On July 22, 2019, the commission issued a penalty assessment against VIP Arrivals in the amount of \$2,500 as a result of violations discovered during the routine safety investigation.¹

On August 7, 2019, VIP Arrivals filed with the commission its application for mitigation of penalties. In the request for mitigation, Aaron Griffith, owner of VIP Arrivals, admitted the violations and requested that the penalty be reduced. VIP Arrivals asked for a commission decision based solely on the information provided and has waived its right to a hearing.

On August 7, 2019, VIP Arrivals submitted a safety management plan addressing each violation noted during the investigation. Staff only recommends approving a safety management plan that addresses the following seven items:

1. The plan must address each acute, critical, or serious violation discovered during the most recent investigation. It must also include corrective actions that address other violations noted during the investigation.
2. Identify why the violations were permitted to occur.
3. Discuss the actions taken to correct the deficiency or deficiencies that allowed the violations to occur. Include actual documentation of this corrective action.
4. Outline actions taken to ensure that similar violations do not reoccur in the future. The plan must demonstrate that the company's operations currently meet the safety standard and factors specified in 49 CFR 385.5 and 385.7. To do so, the plan must demonstrate the company now has adequate safety management controls in place which function effectively to ensure acceptable compliance with applicable safety requirements.
5. If the request includes actions that will be conducted in the near future, such as training, reorganization of departments, purchasing of computer programs, etc., companies must include a detailed description of the activity or training and a schedule of when that activity will commence and when it will be completed.
6. Include any additional documentation relating to motor carrier safety and the prevention of crashes that the company believes supports its request.
7. Include a written statement certifying the company will operate within federal and state regulations and the company's operation currently meets the safety standard and factors specific in 49 CFR 385.5 and 385.7. A corporate officer, partner, or the owner of the company must sign the statement.

¹ See Docket TE-190589

Summary and Recommendations

Staff reviewed VIP Arrivals' safety management plan and concludes it is acceptable and meets the requirements of 49 CFR, Part 385. Staff recommends the commission consolidate Dockets TE-190589 and TE-190590 and upgrade the company's safety rating to *conditional* and cancel the brief adjudicative proceeding scheduled for August 19, 2019. Staff verified and the company waives its right to a hearing.

In response to the request for mitigation, the company corrected each violation and took steps to prevent future occurrences. Staff recommends reducing the assessed penalty of \$2,500 penalty to \$1,500. Staff further recommends that \$1,000 of the penalty be suspended for a period of two years before being waived, on the conditions that: (1) staff conducts a non-rated safety investigation at least six months from the date of an Order, (2) the company may not incur any repeat violations of critical regulations, (3) VIP Arrivals maintains a conditional safety rating, and (4) VIP Arrivals pays the \$500 portion of the penalty that is not suspended.

The company took all the required steps to bring its safety operations into compliance with commission regulations. VIP Arrivals submitted a safety management plan that addresses each violation, identifies how the violations occurred, describes the steps taken to correct them, and put controls in place to ensure the company maintains compliance.

Documentation of driver medical certification, driver qualifications, hours of service records and vehicle maintenance files including the annual inspection are included in the plan.